

§ 2.406

consultation with the appropriate Assistant Administrator, Regional Administrator or Staff Office Director (or, as to employees in the Office of Inspector General, the Inspector General) determines that compliance with the subpoena is clearly in the interests of EPA, the employee must appear at the stated time and place (unless advised by the General Counsel or his designee that the subpoena was not validly issued or served or that the subpoena has been withdrawn) and respectfully refuse to produce the subpoenaed materials. However, where a subpoena *duces tecum* is essentially a written request for documents, the requested documents will be provided or denied in accordance with subparts A and B of this part where approval to respond to the subpoena has not been granted.

§ 2.406 Requests for authenticated copies of EPA documents.

Requests for authenticated copies of EPA documents for purposes of admissibility under 28 U.S.C. 1733 and Rule 44 of the Federal Rules of Civil Procedure will be granted for documents which would otherwise be released pursuant to subpart A. For purposes of Rule 44 the *person having legal custody of the record* is the cognizant Assistant Administrator, Regional Administrator, Staff Office Director or Office Director or his designee. The advice of the Office of General Counsel should be obtained concerning the proper form of authentication.

PART 3—CROSS-MEDIA ELECTRONIC REPORTING

Subpart A—General Provisions

Sec.

- 3.1 Who does this part apply to?
- 3.2 How does this part provide for electronic reporting?
- 3.3 What definitions are applicable to this part?
- 3.4 How does this part affect enforcement and compliance provisions of Title 40?

Subpart B—Electronic Reporting to EPA

- 3.10 What are the requirements for electronic reporting to EPA?
- 3.20 How will EPA provide notice of changes to the Central Data Exchange?

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Subpart C [Reserved]

Subpart D—Electronic Reporting under EPA-Authorized State, Tribe, and Local Programs

- 3.1000 How does a state, tribe, or local government revise or modify its authorized program to allow electronic reporting?
- 3.2000 What are the requirements authorized state, tribe, and local programs' reporting systems must meet?

APPENDIX 1 TO PART 3—PRIORITY REPORTS

AUTHORITY: 7 U.S.C. 136 to 136y; 15 U.S.C. 2601 to 2692; 33 U.S.C. 1251 to 1387; 33 U.S.C. 1401 to 1445; 33 U.S.C. 2701 to 2761; 42 U.S.C. 300f to 300j-26; 42 U.S.C. 4852d; 42 U.S.C. 6901-6992k; 42 U.S.C. 7401 to 7671q; 42 U.S.C. 9601 to 9675; 42 U.S.C. 11001 to 11050; 15 U.S.C. 7001; 44 U.S.C. 3504 to 3506.

SOURCE: 70 FR 59879, Oct. 13, 2005, unless otherwise noted.

Subpart A—General Provisions

§ 3.1 Who does this part apply to?

- (a) This part applies to:
 - (1) Persons who submit reports or other documents to EPA to satisfy requirements under Title 40 of the Code of Federal Regulations (CFR); and
 - (2) States, tribes, and local governments administering or seeking to administer authorized programs under Title 40 of the CFR.

- (b) This part does not apply to:
 - (1) Documents submitted via facsimile in satisfaction of reporting requirements as permitted under other parts of Title 40 or under authorized programs;

- (2) Electronic documents submitted via magnetic or optical media such as diskette, compact disc, digital video disc, or tape in satisfaction of reporting requirements, as permitted under other parts of Title 40 or under authorized programs; or

- (3) Documents and information submitted under grants, cooperative agreements, or financial assistant regulations contained in Title 40.

- (c) This part does not apply to any data transfers between EPA and states, tribes, or local governments as a part of their authorized programs or as a part of administrative arrangements